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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,831	07/31/2003	Troy M. Anderson	PET001-106	8136

7590 11/29/2004

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EXAMINER

ALI, MOHAMMAD M

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,831

Applicant(s)

ANDERSON ET AL.

Examiner

Mohammad Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

The drawings were received on 11/03/04. These drawings are ok and objections are withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 17-21, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLean (3,659,429) in view of Cheng (6,457,955). McLean discloses a refrigerator comprising a cabinet shell including fresh food compartment 8 and a freezer compartment 24; a passage 38 for fluidly interconnecting the fresh food compartment 8 with the freezer compartment 24 such that a flow of cooling air can flow from the freezer compartment 24 to the fresh food compartment 8 a damper 42 provided in the passage 38, the damper 42 being selectively movable between at least an open position and a closed position in order to control the flow of air; a cooling

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system 30 for developing the flow of air of cooling air directed from the freezer compartment 24 into the fresh food compartment 8 when the damper 42 is in open position; a fresh food stirring/auxiliary fan 48 mounted in the fresh food compartment 8 for developing recirculation airflow within the fresh food compartment 8; a control unit (switch 18 for operating the stirring/auxiliary fan 48, damper 42 door sensor/switch 58, optional sensor/thermostatically responsive means 62, temperature control and adjusting knob 14, timer switch knob 18, refrigerator compartment temperature sensor 44 and evaporator fan 30. McLean discloses the invention substantially as claimed as stated above. See Fig. 2-5 and column 1, lines 61-65. However, McLean does not disclose a fan cover including a central portion through which recirculating airflow is drawn, and a peripheral portion for redirecting the recirculating airflow back into the fresh food compartment. Cheng teaches the use of a fan assembly including a fan cover/frame 3, a central inlet opening 31 and peripheral outlet openings 23, fan blades 22/23, base plate 1, tabs/hooks 33, snap portion 15 for the hooks 33 in a fan assembly for the purpose of heat dissipation. See Fig. 3. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the refrigerator of McLean in view of Cheng such that a fan assembly could be provided in order to heat dissipation and maintain a desired temperature in the fresh food compartment.

Claims 1-16, 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLean in view of Cheng as applied to claim 17 above, and further in view of Newman (5,256,159). Davis et al., in view of Cheng disclose the invention

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substantially as claimed as stated above. However, McLean in view of Cheng does not disclose a filter. Newman teaches the use of a filter element 10 in a fan assembly for the purpose of removing odors and other contaminants. See Fig.1 and column 4, lines 16-25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the refrigerator of McLean in view of Cheng and further in view of Newman such that a filter could be provided in order to remove odors and other contaminant carried by the recirculating airflow. Activation and de activation of stirring fan 110, opening and closing of damper 130 can be adjusted through the thermostat control as per requirement by an ordinary skill in the art.

Response to Arguments

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments see remarks page 3-6, filed 11/03/04, with respect to the rejection(s) of claim(s) 1-26 under 103 rejections have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of new prior art.

In response to applicant's argument that Cheng and Newman reference is nonanalogous (not relevant) art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the function of a fan is to create airflow to

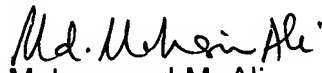
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cool some object by dissipating heat from that object. The fan of Cheng is teaching a cooling by dissipating heat from an object. In addition Cheng teaches the cover structure and inlet outlet features of the claimed invention. Newman also teaches the use of fan including the feature of a filter and deodorization.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is 703-308-5032. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Esquivel Denise can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mohammad M. Ali
November 23, 2004